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ABSTRACT

In this circular, the United State Copyright Office answers questions that are frequently asked about copyright. A definition of copyright is given and the items that can be copyrighted are listed. Four categories of items which cannot be copyrighted are also explained. Copyright procedures for unpublished and published works are outlined, and the proper form for copyright notices is shown. A list of applications forms available from the Copyright Office is included. (PF)

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Circular 1

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General Information on Copyright

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General Information on Copyright

WHAT IS A COPYRIGHT

A copyright is a form of protection given by the law of the United States (Title 17, U.S. Code) to the authors of literary, dramatic, musical, artistic, and other intellectual works. The owner of a copyright is granted by law certain exclusive rights in his work such as:

- the right to print, reprint, and copy the work.
- the right to sell or distribute copies of the work.
- the right to transform or revise the work by means of dramatization, translation, musical arrangement, or the like.
- the right to record the work.
- the right to perform the work publicly, if it is a literary, dramatic, or musical work.

The rights granted by the copyright law are not unlimited in scope. For example, recording rights in musical works are limited by the so-called "compulsory license" provision, which permits recordings upon payment of certain royalties after the initial recording has been authorized by the copyright owner of the musical composition. In the case of nondramatic literary works and musical compositions, the performance right is limited to public performances for profit.

WHO CAN CLAIM COPYRIGHT

Only the author or those deriving their rights through him can rightfully claim copyright. Mere ownership of a manuscript, painting, or other copy does not necessarily give the owner the right to copyright. In the case of works made for hire, it is the employer, and not the employee, who is regarded as the author.

There is no provision for securing a blanket copyright to cover all the works of a particular author. Each work must be copyrighted separately if protection is desired.

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Minors may claim copyright. However, state law may regulate or control the conduct of business dealings involving copyrights owned by minors; for information on this subject, it would be well to consult an attorney.

WHAT CAN BE COPYRIGHTED

The copyright law (Title 17, U.S. Code) lists 14 broad classes of works in which copyright may be claimed, with the provision that these are not to limit the subject matter of copyright. Within the classes are the following kinds of works:

Books (Class A). Published works of fiction and nonfiction, poems, compilations, composite works, directories, catalogs, annual publications, information in tabular form, and similar text matter, with or without illustrations, that appear as a book, pamphlet, leaflet, card, single page, or the like.

Periodicals (Class B). Publications, such as newspapers, magazines, reviews, newsletters, bulletins, and serial publications, that appear under a single title at intervals of less than a year. Also contributions to periodicals, such as stories, cartoons, or columns published in magazines or newspapers.

Lectures or similar productions prepared for oral delivery (Class C). Unpublished works such as lectures, sermons, addresses, monologs, recording scripts, and certain forms of television and radio scripts.

Dramatic and dramatico-musical compositions (Class D). Published or unpublished dramatic works such as the acting versions of plays for the stage, for filming, radio, television, and the like, as well as pantomimes, ballets, operas, operettas, etc.

Musical compositions (Class E). Published or unpublished musical compositions (other than dramatico-musical compositions) in the form of visible notation, with or without words. Also new versions of musical compositions, such as adaptations, arrangements, and editing when it represents original authorship. The words of a song, unaccompanied by music, are not registrable in Class E.

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Maps (Class F). Published cartographic representations of area, such as terrestrial maps and atlases, marine charts, celestial maps, and such three-dimensional works as globes and relief models.

Works of art; or models or designs for works of art (Class G). Published or unpublished works of artistic craftsmanship, insofar as their form but not their mechanical or utilitarian aspects are concerned, such as artistic jewelry, enamels, glassware, and tapestries, as well as works belonging to the fine arts, such as paintings, drawings, and sculpture.

Reproductions of works of art (Class H). Published reproductions of existing works of art in the same or a different medium, such as a lithograph, photoengraving, etching, or drawing of a painting, sculpture, or other work of art.

Drawings or sculptural works of a scientific or technical character (Class I). Published or unpublished diagrams or models illustrating scientific or technical works, such as an architect's or an engineer's blueprint, plan, or design, a mechanical drawing, an astronomical chart, or an anatomical model.

Photographs (Class J). Published or unpublished photographic prints and filmstrips, slide films, and individual slides. Photoengravings and other photomechanical reproductions of photographs are registered in Class K.

Prints, pictorial illustrations, and commercial prints or labels (Class K). Published prints or pictorial illustrations, greeting cards, picture postcards, and similar prints, produced by means of lithography, photoengraving, or other methods of reproduction. A print or label, not a trademark, published in connection with the sale or advertisement of articles of merchandise also is registered in this class.

Motion-picture photoplays (Class L). Published or unpublished motion pictures that are dramatic in character, such as feature films, filmed or recorded television plays, short subjects and animated cartoons, musical plays, and similar productions having a plot.

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Motion pictures other than photoplays (Class M). Published or unpublished nondramatic motion pictures, such as news films, travel films, nature studies, documentaries, training or promotional films, and filmed or recorded television programs or nontheatrical motion pictures having no plot.

Sound recordings (Class N). Published sound recordings, such as phonograph discs, tape cassettes and cartridges, player-piano rolls, and similar material objects in which a series of sounds are fixed. The copyright law covers only those sound recordings that are fixed and first published on or after February 15, 1972. Registration in Class N is not a substitute for registration for the music or other copyrightable matter recorded, and is not appropriate for a sound track when it is an integrated part of a motion picture.

WHAT CANNOT BE COPYRIGHTED

Even though a work does not fit conveniently into one of the 14 classes, this does not necessarily mean that it is uncopyrightable. However, there are several categories of material which are generally not eligible for statutory copyright protection. These include among others:

- Titles, names, short phrases, and slogans; familiar symbols or designs; mere variations of typographic ornamentation, lettering, or coloring; mere listings of ingredients or contents.
- Ideas, plans, methods, systems, or devices, as distinguished from a description or illustration.
- Works that are designed for recording information and do not in themselves convey information, such as blank forms to be used as time cards, account books, diaries, bank checks, scorecards, address books, report forms, and the like.
- Works consisting entirely of information that is common property and containing no original authorship. For example: standard calendars, height and weight charts, tape measures and rulers, schedules of sporting events, and lists or tables taken from public documents or other common sources.

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UNPUBLISHED WORKS

An unpublished work is generally one for which copies have not been sold, placed on sale, or made available to the public. Unpublished works are eligible for one or the other of two types of protection:

Common Law Literary Property. This type of protection against unauthorized use of an unpublished work is a matter of state law, and arises automatically when the work is created. It requires no action in the Copyright Office. It may last as long as the work is unpublished, but it ends when the work is published or when statutory copyright is secured by registration.

Statutory Copyright. This is the protection afforded by the federal law upon compliance with certain requirements. Only the following types of works can be registered for statutory copyright before they have been published: musical compositions, dramas, works of art, drawings and sculptural works of a scientific or technical character, photographs, motion pictures, and works prepared for oral delivery. There is no requirement that any of these works be registered for statutory copyright in unpublished form, but there may be advantages in doing so. If they are registered in their unpublished form, the law requires that another registration be made after publication with the copyright notice affixed to the copies (see page 7).

The following types of material **cannot** be registered for statutory protection in unpublished form: books (including short stories, poems, and narrative outlines), prints, maps, reproductions of works of art, periodicals, commercial prints and labels, and sound recordings. These works secure statutory copyright by the act of publication with notice of copyright.

COPYRIGHT PROCEDURE FOR AN UNPUBLISHED WORK

Statutory copyright for unpublished works is secured by registering a claim in the Copyright Office. For this purpose it is necessary to forward the following material:

Application Form. The appropriate form may be ordered from the Copyright Office from the list printed on pages 10 and 11. Forms are supplied without charge.

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Copy. In the case of manuscripts of music, dramas, lectures, etc., one complete copy should accompany the application. Generally, unpublished manuscript material is retained by the Copyright Office. For photographs, deposit one photographic print. Special requirements concerning motion pictures, and certain graphic and artistic works, are stated on the application forms.

Fee. The registration fee for unpublished works is $6. See page 11 for mailing instructions.

PUBLISHED WORKS

Published works are works that have been made available to the public in some way, usually by the sale or public distribution of copies. The copyright law defines the "date of publication" as "the earliest date when copies of the first authorized edition were placed on sale, sold, or publicly distributed by the proprietor of the copyright or under his authority. . . ."

No specific number of copies or method of distribution is required for a general publication. However, it is sometimes difficult to determine the dividing line between a general publication and a limited distribution (such as sending copies to agents, publishers, or some other limited group for a specific purpose). If you are in doubt about publication in a particular case, it may be advisable to consult an attorney.

The rights in a work will be permanently lost unless all published copies bear a notice of copyright in the form and position described on pages 7 and 8. When a work has been published without notice of copyright it falls into the public domain and becomes public property. After that happens it serves no purpose to add the notice to copies of the work, and doing so may be illegal.

In the case of works that cannot be registered before publication, it is the act of publication with notice of copyright, rather than registration in the Copyright Office, that secures statutory copyright. While the Copyright Office registers claims to copyright, it does not grant copyright protection.

COPYRIGHT PROCEDURE FOR PUBLISHED WORKS

Three steps should be taken to secure and maintain statutory copyright in a published work:

- ***Produce copies with copyright notice.*** Produce the work in copies by printing or other means of reproduction. It is essential that all copies bear a copyright notice in the required form and position (see pages 7 and 8).

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- *Publish the work.*
- *Register your claim in the Copyright Office.* Promptly after publication, you should send the following material to the Copyright Office:

  APPLICATION FOR REGISTRATION. The appropriate form may be requested from the Copyright Office from the list printed on pages 10 and 11.

  COPIES. Send two copies of the best edition of the work as published.

  FEE. The registration fee for published works is $6.

See page 11 for mailing instructions.

☛ NOTE: The law requires that, after a work is published with the prescribed notice, two copies "shall be promptly deposited," accompanied by a claim of copyright (that is, an application for registration) and the registration fee.

THE COPYRIGHT NOTICE

Form of the Notice. As a general rule, the copyright notice should consist of three elements:

- *The word "Copyright," the abbreviation "Copr.," or the symbol* ©. Use of the symbol © may have advantages in securing copyright in countries that are members of the Universal Copyright Convention.
- The name of the copyright owner (or owners).
- The year date of publication. This is ordinarily the year in which copies are first placed on sale, sold, or publicly distributed by the copyright owner or under his authority. However, if the work has previously been registered for copyright in unpublished form, the notice should contain the year date of registration for the unpublished version. Or, if there is new copyrightable matter in the published version, it is advisable to include both the year date of the unpublished registration and the year date of publication.

These three elements should appear together on the copies. Example:

© John Doe 1974

Optional Form of Notice. A special form of the notice is permissible for works registrable in Classes F through K (maps; works of art, models or designs for works or art; reproductions

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of works of art; drawings or sculptural works of a scientific or technical character; photographs; prints and pictorial illustrations; and prints or labels used for articles of merchandise). This special notice may consist of the symbol ©, accompanied by the initials, monogram, mark, or symbol of the copyright owner, if the owner's name appears upon some accessible portion of the copies. A detachable tag bearing a copyright notice is not acceptable as a substitute for a notice permanently affixed to the copies.

Position of the Notice. For a book or other publication printed in book form, the copyright notice should appear upon the title page or the page immediately following. The "page immediately following" is normally the reverse side of the page bearing the title. For a periodical, the notice should appear upon the title page, upon the first page of text, or under the title heading. For a musical composition, the notice may appear either upon the title page or upon the first page of music.

Notice for Unpublished Works. The law does not specify a notice for unpublished works. Nevertheless, to avoid the danger of inadvertent publication without notice, it may be advisable for an author to affix notices to any copies that leave his control.

Special Copyright Notice for Sound Recordings. The copyright notice for sound recordings consists of the symbol Ⓟ (the letter P in a circle), the year date of first publication of the sound recording, and the name of the copyright owner of the sound recording; for example:

Ⓟ 1974 Doe Records, Inc.

The copyright notice for a sound recording should appear on the surface of the copies of the recording or on the label or container, in such manner and location as to give reasonable notice of the copyright claim. (The law also provides for alternative forms of the notice; for further information on copyright for sound recordings, request Circular 56 from the Copyright Office.)

HOW LONG DOES COPYRIGHT PROTECTION LAST

The first term of statutory copyright runs for 28 years. The term begins on the date the work is published with the notice of copyright, or, in the case of unpublished works registered in

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the Copyright Office, on the date of registration. A copyright may be renewed for a second term of 28 years if an acceptable renewal application and fee are received in the Copyright Office during the last year of the original term of copyright, which is measured from the exact date on which the original copyright began. Recent Acts of Congress have extended second-term copyrights that would have expired on or after September 19, 1962; however, these extensions have no effect on the time limits for renewal registration. For further information about renewal copyright and these extensions, write to the Copyright Office.

INTERNATIONAL COPYRIGHT PROTECTION

If a work is by an author who is neither a citizen nor a domiciliary of the United States, special conditions determine whether or not the work can be protected by U.S. copyright. Specific questions on this subject, and questions about securing protection for U.S. works in foreign countries, should be addressed to the Register of Copyrights, Library of Congress, Washington, D.C. 20559.

For general information regarding international copyright matters, request Circular 38 from our Office. We also furnish on request the current lists showing the copyright relations of various countries.

For information about the requirements and protection provided by other countries, it may be advisable to consult an expert familiar with foreign copyright laws. The U.S. Copyright Office is not permitted to recommend agents or attorneys or to give legal advice or information on foreign laws.

TRANSFER OR ASSIGNMENT OF STATUTORY COPYRIGHT

A copyright may be transferred or assigned by an instrument in writing, signed by the owner of the copyright. The law provides for the recordation in the Copyright Office of transfers of copyright. The original signed instrument should be submitted for the purpose of recording. It will be returned following recordation. For the most effective protection, an assignment executed in the United States should be recorded within 3 months from the date of execution. Assignments executed abroad should be recorded within 6 months. For information about assignments and related documents, request Circular 10.

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APPLICATION FORMS

The following forms are provided by the Copyright Office, and may be obtained free of charge upon request:

*CLASS A — FORM A: Published book manufactured in the United States of America.

FORM A–B FOREIGN: Book or periodical manufactured outside the United States of America (except works subject to the ad interim provisions of the Copyright Law of the United States of America; see Form A–B Ad Interim).

*CLASS A OR B — FORM A–B AD INTERIM: Book or periodical in the English language manufactured and first published outside the United States of America and subject to the ad interim provisions of the Copyright Law of the United States of America.

FORM B: Periodical manufactured in the United States of America.

*CLASS B — FORM BB: Contribution to a periodical manufactured in the United States of America.

CLASS C — FORM C: Lecture or similar production prepared for oral delivery.

CLASS D — FORM D: Dramatic or dramatico-musical composition.

FORM E: Musical composition by an author who is a citizen or domiciliary of the United States of America or which is first published in the United States of America.

CLASS E — FORM E FOREIGN: Musical composition by an author who is not a citizen or domiciliary of the United States of America and which is not first published in the United States of America.

*CLASS F — FORM F: Map.

CLASS G — FORM G: Work of art; model or design for work of art.

*CLASS H — FORM H: Reproduction of a work of art.

CLASS I — FORM I: Drawing or plastic work of a scientific or technical character.

CLASS J — FORM J: Photograph.

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*CLASS K
- FORM K: Print or pictorial illustration.
- FORM KK: Print or label used for article of merchandise.

CLASS L OR M
- FORM L-M: Motion picture.

*CLASS N
- FORM N: Sound recording.

- FORM R: Renewal copyright.
- FORM U: Notice of use of musical composition on mechanical instruments.

*NOT TO BE USED FOR UNPUBLISHED MATERIAL (SEE PAGES 4 AND 5).

MAILING INSTRUCTIONS

Address. All communications should be addressed to the Register of Copyrights, Library of Congress, Washington, D.C. 20559.

Fees. Do not send cash. Fees sent to the Copyright Office should be in the form of a money order, check, or bank draft, payable to the Register of Copyrights.

Mailing. Processing of the material will be more prompt if the application, copies, and fee are all mailed in the same package.

AVAILABLE INFORMATION

This circular attempts to answer some of the questions that are frequently asked about copyright. For a list of other material published by the Copyright Office, write for "Publications of the Copyright Office." Any requests for Copyright Office publications or special questions relating to copyright problems not dealt with in this circular should be addressed to the Register of Copyrights, Library of Congress, Washington, D.C. 20559.

The Copyright Office cannot give legal advice. If you need information or guidance on matters such as disputes over the ownership of a copyright, getting a work published, obtaining royalty payments, or prosecuting possible infringers, it may be necessary to consult an attorney.

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